

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JACOBO BIBLIOWICZ, CAROLYN E. KREISEL,
ROBERT LIPAIR and RYAN P. ROGERS

Appeal 2007-0437
Application 09/982,224
Technology Center 2100

Decided: April 23, 2007

Before JAME D. THOMAS, MAHSHID D. SAADAT, and JAY P. LUCAS,
Administrative Patent Judges.

THOMAS, *Administrative Patent Judge.*

DECISION ON APPEAL

This appeal involves claims 1 through 7, 9 through 16, 18 through 26, 28 through 35, 37 through 45, 47 through 54, 56 and 57. We have jurisdiction under 35 U.S.C. §§ 6(b), 134(a).

Representative independent claim 1 is reproduce below:

1. A method for collaborating access to a drawing document on a network, comprising storing a drawing document on a server,

receiving, in the server, a request to open the drawing document;

in response to the request, the server establishing a collaboration session, wherein during the collaboration session, the sever permits two or more collaborators to view and work simultaneously across the network on the drawing document stored on the server, wherein each of the two or more collaborators view, in real time, a modification to the drawing document made by another collaborator;

receiving, the server, a first heartbeat command regularly transmitted at a defined interval, wherein the first heartbeat command comprises a command to modify the drawing document from a first one of the collaborators in the collaboration session; and

the server distributing the command to modify the drawing document as part of a second heartbeat command to other ones of the collaborators in the collaboration session.

The following references are relied on by the Examiner:

Brown	US 6,067,551	May 23, 2000
Caronni	US 6,195,751 B1	Feb. 27, 2001
Kumar	US 6,342,906 B1	Jan. 29, 2002

(Filed February 2, 1999)

All claims on appeal stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the Examiner relies upon Brown in view of Kumar, further in view of Caronni.

Rather than repeat the positions of the Appellants and the Examiner, reference is made to the Brief and Reply Brief for Appellants' positions, and to the Answer for the Examiner's positions.

OPINION

Generally, for the reasons set forth by the Examiner in the Answer, we sustain the rejection of all claims on appeal under 35 U.S.C. § 103.

According to Appellants' disclosure and discussion of the subject matter of the independent claims on appeal at pages 2-3 of the principal brief, an initial subgroup of these claims comprises claims 1, 20 and 39, and a second subgroup comprises claims 12, 31 and 50. Appellants urged patentability of this second subgroup of claims at the bottom of page 9 of the principal Brief on appeal based upon the arguments presented as to independent claim 1, which is representative of independent claims 1, 20 and 39. In contrast to the subject matter of claim 1, it is noted here that independent claim 12 does not recite the claimed second heartbeat command as set forth in claim 1, where this feature is recited in its dependent claim 13. A corresponding relationship exists with respect to dependent claims 32 as depending from claim 31 and 51 depending from claim 50. Since we find unpatentable the subject matter of representative independent claim 1 on appeal, we do so for each independent claim. We treat in turn the arguments presented as to dependent claims 6, 10, 11 and 16 as representative of corresponding dependent claims among the other independent claims.

Page 4 of the Answer indicates that the Examiner recognizes that Brown does not "specifically teach" collaborators that communicate modifications of documents by means of "heartbeat commands" that are regularly transmitted at defined intervals. Although we agree with the

Examiner's observation that heartbeat commands are not per se taught in Brown, there are significant teachings and suggestions to the artisan that collaboration of modifying commands exist and are regularly transmitted at defined intervals among the responsive collaborators in Brown. Because of the extensive dialog depicted among the various parts of flow chart figure 2 comprising figures 2A through 2G, the artisan would have readily concluded that there are significant dialogs between the collaborators in Brown that substantially teach heartbeat commands in other words that are regularly transmitted at defined intervals to the extent claimed.

Caronni merely confirms this in a collaboration environment. Although we recognize that Caronni's focus is upon a group key management concept for encrypting and making secure multicasting in a collaboration environment, the need for the heartbeat message among them is emphasized in the discussion at columns 11 through 13. Collaboration in Caronni is detailed at column 1 and the specific teachings at column 6, lines 4 through 18 at least. The claims on appeal do not exclude the use of a secure or encrypted environment as taught in Caronni. It is also plain to us that the artisan would have considered it advantageous in a collaboration environment to have utilized a secure environment thus rendering the additional teaching of Caronni obvious to the artisan within 35 U.S.C. § 103.

Although we do not disagree with much of what Appellants said about the explicit teachings of Caronni, for example, at pages 6 through 9 of the principal Brief on appeal, we strongly disagree with Appellants' urging that this reference teaches away from the invention as claimed. There is simply no active discouragement from following the path set out in the reference or any teaching that would have led the artisan in a direction divergent from the

path taken by the Appellants. This specific teaching of heartbeat commands and messages in Caronni in a collaboration environment only emphasizes the need for regular communications in the collaboration environment in Brown.

Contrary to Appellants' views expressed in the Brief and Rely Brief, Brown does operate for simultaneous multi-user editing of a master copy of a document available over a network from a file server as the Examiner has made reference to at the bottom of column 1 of this reference. That Brown may also teach the ability of the system to have collocated or otherwise duplicate copies of the master document within each collaboration terminal is not excluded by the subject matter of the representative independent claim 1 on appeal. The Examiner's reference to the first paragraph of the Summary of the Invention in Brown at the bottom of column 2 is very telling since it emphasizes the need to synchronize or otherwise maintain heartbeat type commands regularly transmitted between the collaborator terminals. It also teaches the need for a reconciliation process among the local copies of a given document copied from a shared server. The synchronization and common timing arrangements are also emphasized in the Summary of The Invention beginning at column 17 of Brown.

For its part, we also agree with the Examiner's view that it would have been obvious to have combined the teachings of Kumar with those of Brown and Caronni. Initially, to the extent that Brown appears to be limited in its teachings to the modification of documents, it appears very clear to us that Kumar teaches a real-time collaboration environment synchronous among collaborators. The Examiner's reference to the teachings at columns 3 and 4 of this reference clearly makes reference to shared work spaces that

may include any type of documents including drawing and three dimensional views as well as images. As noted by the Examiner, the teachings with respect to figure 2 at the top of column 4 of Kumar also characterize the shared work spaces comprising graphical objects. Of particular note as to the combinability issue are the teachings in the last paragraph at column 4 of Kumar which indicates that its system teachings may be easily built into any real time collaborations system. This teaching also brings out another major teaching of Kumar, that it is in a real-time collaboration environment. Thus, also emphasized is the heartbeat command nature of the communications between collaborators on a regular basis as claimed. We therefore do not agree with Appellants' characterization of the Brown and Kumar references at the bottom of page 5 of the principal Brief on appeal since the remarks here appear to play off the teachings of Kumar and Brown against each other.

We turn now to the subject matter of argued dependent claim 6 where it is stated that the command comprises an extensible markup language (XML) command. Appellants' own Specification is written in the sense of recognizing that XML was well known in the art and Appellants' disclosed invention makes use of it. We therefore agree with the Examiner's views at the bottom of page 5 of the Answer that XML would have been an obvious choice for a network-based application of which each of the three references basically teaches. While we recognize the Examiner's choice of term as characterizing the use of this well known language as being a mere design choice is misplaced, the arguments behind the Examiner's characterization have not been seasonably challenged by Appellants at page 10 of the principal Brief and at pages 5 and 6 of the Reply Brief. The Examiner's

remarks in the paragraph bridging pages 22 and 23 of the Answer are well-stated because it was well known in the art that transmission of data between different computer systems utilizing a common server lends itself to the use of this language. After all, HTML was also well known to be used in the internet as a form of mark-up language to communicate between clients and servers.

As to the object identifier feature of dependent claim 10, we are satisfied that the Examiner provided sufficient evidence of this capability by our earlier noted reference to the teachings at the top of column 4 of Kumar with respect to its graphical object identifier. As to claim 11, the teachings identified at columns 3 and 4 of Kumar clearly indicate the ability of his system to operate on 3-D data.

Lastly, the collaboration palette of claim 16 merely broadly provides information relating to collaborators in a collaboration session. This is clearly depicted in figure 6 and figures 7A, 7B of Brown.

In view of the foregoing the decision of the Examiner rejecting all claims on appeal under 35 U.S.C. § 103 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR §1.136(a). See 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

PGC

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